

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: ASBESTOS PRODUCTS LIABILITY
LITIGATION (NO. VI)

SUOJA et al v. INC. OWENS-ILLINOIS et al

Civil Action No. MDL 875

PA-ED No. 09-CV-60256
Trans from WI-E Case No. 97-2370

**PLAINTIFF’S MOTION FOR CORRECTION OF THE RECORD BASED ON A
CLERICAL MISTAKE PURSUANT TO F.R.C.P. 60(a)**

Plaintiff moves this Court to amend the docket for the above-captioned case by removing Owens-Illinois Inc.’s (OI) designation of “*TERMINATED: 11/08/2012*,” and in support of his motion states as follows:

1. Plaintiff originally filed this case in the Western District of Wisconsin on August 3, 1999. (Ex. 1.) OI was listed in four of the five counts; two counts for products liability, one for conspiracy, and one derivative loss of consortium claim. (Ex. 1 at 2-4, 6.)
2. After the case had been transferred to the MDL 875, OI filed a motion for partial summary judgment on October 9, 2012, for the conspiracy claim and punitive damages only. (Ex. 2.) OI asked the court, “enter an order granting summary judgment in its favor and against Plaintiff on civil conspiracy and punitive damages, granting it fees and costs, and awarding such further relief as this Court deems just and proper. (Ex. 2 at 11-12.)
3. On October 29, 2012, Plaintiff’s counsel filed a statement of non-opposition which conceded the conspiracy charge but asked the court to defer or deny the motion on the issue of punitive damages, consistent with previous MDL orders. (Ex. 3.)
4. On November 7, 2012, Judge Robreno entered a group order granting numerous motions as unopposed. (Ex. 4.) The court ordered, “that the motions listed in Exhibit ‘A,’

- attached, are granted as unopposed.” (Ex. 4.) Among the motions listed in exhibit “A” was OI’s motion for partial summary judgment from October 9, 2012. (Ex. 4 at 2.)
5. On November 8, 2012, a docket entry was entered in this case “That the motions listed in exhibit ‘A,’ attached, are granted as unopposed” and OI’s status was changed in the caption to “*TERMINATED: 11/08/2012.*” (Ex. 5 at 2, 15.)
 6. Plaintiff first became aware of the change in OI’s status on the docket when OI filed a motion to vacate the conditional remand order on January 13, 2014, alleging that it had been terminated from the case. (Ex. 6.)
 7. OI has made no motion to dismiss any other claims against it in this case. (*See* Ex. 5.)
 8. No order has been given dismissing OI from this case. (*See* Ex. 5.)
 9. F.R.C.P. 60(a) provides: “The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice.”

CONCLUSION

_____ WHEREFORE, Plaintiff moves this Court to amend the docket for the above-captioned case by removing OI’s designation of “*TERMINATED: 11/08/2012.*”

Dated: February 4, 2104

/s/ Robert G. McCoy
Attorney for the plaintiff

Robert G. McCoy
Attorney for the Plaintiff
Cascino Vaughan Law Offices, Ltd.
220 S. Ashland Avenue
Chicago, Illinois 60607
(312) 944-0600
(312) 944-1870 (fax)
bmccoy@cvlo.com

Certificate of Service

I hereby certify that on February 4, 2014, I caused the forgoing to be electronically filed with the United States District Court for the Eastern District of Pennsylvania using the CM/ECF system which will automatically send all necessary notifications of this filing to CM/ECF participants in this case. I further certify that a copy was served via email to:

Counsel for Defendant Owens-Illinois Inc.

Brian O. Watson	:	bwatson@schiffhardin.com
Edward M. Casmere	:	ecasmere@schiffhardin.com
Robert H. Riley	:	rriley@schiffhardin.com
Matthew J. Fischer	:	mfischer@schiffhardin.com
Joshua D. Lee	:	jdlee@schiffhardin.com
David M. Setter	:	dmsetter@fpwk.com
Jennifer M. Studebaker	:	studebakerjm@fpwk.com

Dated: February 4, 2104

/s/ Robert G. McCoy
Attorney for the plaintiff

Robert G. McCoy
Attorney for the Plaintiff
Casino Vaughan Law Offices, Ltd.
220 S. Ashland Avenue
Chicago, Illinois 60607
(312) 944-0600
(312) 944-1870 (fax)
bmccoy@cvlo.com